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Lowe Hauptman Gopstein Gilman & Berner LLP
1700 Diagonal Road
Suite 310
Alexandria, VA 22314

EXAMINER

MADSEN, ROBERT A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 02/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/519,999

Applicant(s)

OZAWA

Examiner

Robert Madsen

Art Unit

1761

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 03 December 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 10-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 10-25 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

4) Interview Summary (PTO-413) Paper No(s) _____

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Acknowledgment is made of receipt of the amendment filed December 3, 2001. Claims 1-9 have been cancelled. Claims 10-25 have been added.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20,23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshio et al. (JP403136614A).

Regarding claims 20 and 23-25, Yoshio et al. ('661) teach an outer bag (i.e. item 11) having a vapor release hole(i.e. steam bleeding hole 21)at the top of the bag that is opened by pressure and a liquid release hole (i.e. water bleeding hole 23), an first inner bag filled with liquid (i.e. water bag 12, containing an edible substance as recited in claim 25) that has a liquid release hole (i.e. "hot water" bleeding hole 31) that selective discharges as recited in claim 23 (i.e. discharges "hot water" versus cold) , and a second permeable inner bag (rice bag 13 containing an edible substance as recited in claim 25) that is mixed with the liquid from the first inner bag and is bonded to the bottom of the bag as recited in claim 20, whereby only mixed liquid is discharged from the outer bag as recited in claim 24 (See Figures and English Abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

⁹
Claims 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshio et al. (JP40313661A) in view of Yoshio et al. (JP06329179) and Hoffman (US 3683889).

Regarding claim 10 and 18, Yoshio et al. ('661) teach an outer bag having a vapor releasing hole (i.e. bag 11 with bleeding hole 21) and a selective liquid releasing hole (i.e. "hot" water bleeding hole 23), a first inner bag in the outer bag that is filled with liquid (i.e. water bag 12) and has a liquid release hole (i.e. bleed hole 31) for releasing the water when heated, a second permeable inner bag (i.e. rice bag 13) for mixing with the discharged liquid from the first bag (English Abstract and Figures). The English abstract of Yoshio et al. ('661) fails to teach the vapor release hole has a second closure and the first inner bag includes an internal heating element, as recited in claim 10, wherein the heating element comprises at least two separately stored chemicals that react upon application of force as recited in claim 18.

Yoshio et al. ('179) are relied on as evidence of the conventionality of providing a second closure for a vapor release hole for an outer bag comprising a food and liquid so that a uniform pressure can be maintained within the bag throughout the cooking process to assure the desired taste of the edible product (See item 24 in Drawing 16 in

light of the Abstract, Paragraphs 0036-0038,0044-0046). Therefore, it would have been obvious to provide a second closure to the vapor release hole of Yoshio ('661) since this would maintain uniform pressure throughout the cooking process that is important to assure a desired flavor. Furthermore, one would have been substituting one known vapor release hole design for another for the same purpose: cooking an edible substance in an outer bag utilizing an inner bag of liquid material.

Hoffman is relied on as evidence of the conventionality of providing an internal heating element in the liquid holding portion of a container(including a bag) wherein the purpose of the bag is to heat the liquid to penetrate an interior bag containing a solid. Hoffman teaches the providing an internal heat source for these types of products is conventional and offers the advantage of an economical way of preparing these products without an external source of heat. Hoffman further teaches the element comprises two separate chemicals that react upon applying force to heat the container, as recited in claim 18 (Abstract, Column 1 lines 1-63, Column 2, lines 10-24, Column 4, line 44 to Column 5, line 39). Therefore it would have been obvious to include an internal heating element in the liquid containing bag of Yoshio ('661) wherein at least two separated chemicals react as a result of external force since it was known in the art to provide this type of heat source within a liquid compartment such that the liquid is heated to hydrate a solid in a separate, but permeable compartment. Furthermore, this was known to eliminate the need for an external heat source and thus make it a more economical package and one would have been substituting one heating means for another for the same purpose.

Regarding claims 11,13,14, Yoshio et al. ('661) teach water and rice which are both edible as recited in claims 11 and 13, and the second inner bag is bonded to the bottom of the outer bag, whereby only the mixed liquid is discharged from the outer bag as recited in claim 14 (See English abstract and Figures).

Regarding claim 12, Yoshio et al. ('661) teach a rice food bag containing a favorite food, but is silent in teaching seasoning, coffee or tea. However, it is notoriously known in to include seasoning with rice to provide a desired flavor. Yoshio ('173) are relied on as further evidence of providing a seasoning in an inner bag to provide hydration and flavor to a food product in an outer bag (Abstract, Drawings, Paragraphs 0016-0019). Therefore, including seasoning would have been an obvious matter of choice since it was known to provide a favorite food in the rice bag, and it was well known to provide seasonings in similar food preparation bags.

Regarding claims 15 -17, as discussed above, in the rejection of claim 10, although the English Abstract of Yoshio et al. ('661) fails to teach a second closure or one that is time adjustable as recited in claim 15, an indicator for displaying the time when the closure is open as recited in claim 16, and a pressure indicator. However, as discussed above in the rejection of claim 10, Yoshio et al. ('173) not only teaches the conventionality of a second closure for maintaining uniform pressure during cooking to assure a flavor, but this closure is time *adjustable* since the closure is a function of the pressure which is dependent on the *time* at which it is exposed to a heat source (i.e. when the bag reaches a particular temperature to generate sufficient vapor to force the closure open). Furthermore, the closure provides an " indicator for displaying the time

when the seal is open" since it lifts up and away from the bag indicating the seal is open at that time. Furthermore, by lifting away from the bag, the closure serves as a pressure indicator, or indicates pressure has exceeded a (Drawings, Paragraphs 0036-0038,0044-0046). Therefore, it would have been further obvious to include a second closure that is time adjustable and provides an indicator for displaying the time when the seal is open, as recited in claims 15 and 16, since a second closure maintaining uniform pressure during cooking to assure a flavor responds to an increase in internal pressure that occurs at particular times (i.e. increased pressure is temperature and thus time dependent) and the second closure lifts away from the bag as an indicator for displaying the time when it is open. It would have been further obvious that the lifting of the closure provides a pressure indicator, as recited in claim 17, to show when an excessive pressure has been reached. Furthermore, one would have been substituting one known closure for another for the same purpose.

Regarding claim 19, the English Abstract of Yoshio et al. ('661) teaches the first seal is located at the bottom of the first inner bag for hot water bleeding and teaches the outer bag may have both a top and bottom seal(Abstract, Drawings) but fails to teach the seal may be placed on the top of the bag and that the seal when placed on the bottom opens at a higher pressure level. However, to place the hole one either the top or bottom would have been an obvious result effective variable of the desired form of contents to be released for heating (i.e. either vapor or liquid) since Yoshio et al. ('661) teach top holes are for releasing vapors and bottom holes are for releasing liquids in the outer bag.

With respect to having the lower release hole respond to a greater pressure, as discussed above in the rejection of claim 10, Yoshio et al. ('173) teach keeping a seal on the top or vapor release hole assures *uniform* heating of the contents of a bag. Therefore, it would have been obvious that to have the liquid release hole respond to a greater pressure than the vapor so that one could assure uniform temperature of the liquid.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshio et al. (JP40313661A), as applied to claim 20 above, further in view of Hoffman (US 3683889).

Although, Yoshio et al. ('661) teach heating the bags, the English abstract of Yoshio et al. ('661) fails to the first inner bag includes an internal heating element. Hoffman is relied on as evidence of the conventionality of providing an internal heating element in the liquid holding portion of a container(including a bag) wherein the purpose of the bag is to heat the liquid to penetrate an interior bag containing a solid. Hoffman teaches the providing an internal heat source for these types of products is conventional and offers the advantage of an economical way of preparing these products without an external source of heat. (Abstract, Column 1 lines 1-63, Column 2, lines 10-24, Column 4, line 44 to Column 5, line 39). Therefore it would have been obvious to include an internal heating element in the liquid containing bag of Yoshio et al. ('661) since it was known in the art to provide this type of heat source within a liquid compartment such that the liquid is heated to hydrate a solid in a separate, but

permeable compartment. Furthermore, this was known to eliminate the need for an external heat source and thus make it a more economical package and one would have been substituting one heating means for another for the same purpose.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshio et al. (JP40313661A), as applied to claim 20 above, further in view of Yoshio et al. (JP06329179)

As discussed above in the rejection of claim 20, the English abstract of Yoshio et al. ('661) teaches a vapor release hole, but fails to teach the vapor release hole has a second closure. Yoshio et al. ('179) are relied on as evidence of the conventionality of providing a second closure for a vapor release hole for an outer bag comprising a food and liquid so that a uniform pressure can be maintained within the bag throughout the cooking process to assure the desired taste of the edible product (See item 24 in Drawing 16 in light of the Abstract, Paragraphs 0036-0038,0044-0046). Therefore, it would have been obvious to provide a second closure to the vapor release hole of Yoshio ('661) since this would maintain uniform pressure throughout the cooking process that is important to assure a desired flavor. Furthermore, one would have been substituting one known vapor release hole design for another for the same purpose: cooking an edible substance in an outer bag utilizing an inner bag of liquid material.

Response to Arguments

Applicant's arguments with respect to the new claims 10-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 6:30AM-4:00PM M-F (except alternate Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7718 for regular communications and (703)305-7718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen
Examiner
Art Unit 1761
February 8, 2002

Milton I. Cano
MILTON I. CANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

2/11/02